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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,342	10/06/2001	Eric C. Miller	M-11777 US	4511

28765 7590 05/06/2005

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WASHINGTON, DC 20006

EXAMINER
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TRAN, CON P

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/972,342

Applicant(s)

MILLER ET AL

Examiner

Con P. Tran

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/24/01; 07/23/02; 04/23/02</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: On page 1, lines 11-15, updated information of priority documentations are needed.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-27** are rejected under 35 U.S.C. 102(b) as being anticipated by Spitzer U.S. Patent 6,091,546 (cited by Applicants).

Regarding **claim 1**, Spitzer teaches a communication system (see Figs. 1, 7, 20, and respective portions of the specification) comprising:

eyewear (100, Fig. 1) comprising a microphone (106) and a speaker (audio subsystem output 108, Fig. 1);

wearer unit comprising a first transceiver (960, Fig. 17C; col. 9, lines 21-24) and an interface unit (100, Fig. 1; col. 4, lines 11-22) coupled to the first

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transceiver, wherein the interface unit receives a first signal from the microphone (106) and outputs a second signal to the speaker (108, Fig. 1); and

a base station (remote electronics; col. 9, lines 5-10) comprising a second transceiver for exchanging wireless signals with the first transceiver (reception and transmission; col. 9, lines 10-20), wherein the wireless signals comprise information carried by the first and second signals (col. 10, lines 5-9; col. 11, 42-55) .

Regarding **claim 2**, Spitzer further teaches a neck strap (1002, Fig. 20) for carrying the first and second signals (col. 9, lines 55-61).

Regarding **claim 3**, Spitzer further teaches wherein the wearer unit comprises a cellular telephone (col. 10, lines 5-10).

Regarding **claim 4**, Spitzer further teaches wherein the wearer unit comprises a personal digital assistant (Palm pilot; col. 4, lines 38-41).

Regarding **claim 5**, Spitzer further teaches wherein the wearer unit further comprises coded instructions stored in a memory coupled to a signal processor, and wherein the coded instructions control the signal processor to convert a voice command carried by the first signal into a control command (by voice recognition, col. 10, lines 11-21).

Regarding **claim 6**, Spitzer further teaches wherein the control command controls a medical device (for a surgeon; col. 10, 42-48).

Regarding **claim 7**, Spitzer further teaches wherein the base station further comprises an interface unit for exchanging signals between the base station and a telecommunication system (for video conference; col. 11, lines 42-55).

Regarding **claim 8**, Spitzer further teaches wherein the wearer unit comprises a removable memory unit for recording information carried by the first signal (disk storage, recordable compact disk; col. 10, lines 55-67).

Regarding **claim 9**, Spitzer further teaches wherein the base station comprises a removable memory unit for recording information carried by the first signal (disk storage, recordable compact disk; col. 10, lines 55-67; for video conference; col. 11, lines 42-55; or for surveillance system, col. 7, lines 12-18, col. 11, lines 58-67).

Regarding **claim 22**, Spitzer further teaches wherein the eyewear comprises a video display (102, Fig. 1; col. 4, lines 10-17).

Regarding **claims 10-21, and 23- 27**, method claims 10-21, and 23- 27 are similar to claims 1-9, and 22 except for being couched in method terminology; such methods would be inherent when the structure is shown in the references.

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### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Con P. Tran whose telephone number is (571) 272-7532. The examiner can normally be reached on M - F (8:30 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Sinh N. Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cpt CPJ  
May 2, 2005

  
XU MEI  
PRIMARY EXAMINER